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REMARKS

Initially, Applicant appreciates the withdrawal of the finality of the previous Office Action, as well as the thorough and well-articulated Office Action presently under consideration.

Claims 1-21 and 32-39 are rejected under 35 USC 103(a) as being unpatentable over Maus et al., U.S. Patent No. 6,602,469 in view of Cofano et al., U.S. Patent Publication No. 2002/0059587. Claims 40-47 and 66-74 are rejected under 35 USC 103(a) as being unpatentable over Maus et al., U.S. Patent No. 6,602,469 in view of Cofano et al., U.S. Patent Publication No. 2002/0059587 as applied to claims 1-21 and 32-47 above and further in view of Kumar et al., U.S. Patent No. 6,416,471. Applicant respectfully traverses these rejections.

With respect to claim 1, the Examiner explicitly acknowledges that Maus fails to disclose monitoring data packages to determine revenue for the service. The Examiner then states that Cofano teaches such a concept at Page 2, paragraph 0021. That paragraph states that another “aspect of the present invention further includes: calculating service usage by user, service type, and outcomes; and providing calculated service usage to an administrator.”

Respectfully, this language does not teach what the Examiner asserts and does not teach monitoring data packets to determine revenue. As the Examiner is well aware, the reference must be considered in its entirety. The “objective” summarized at paragraph 21 is explained at paragraph 62. From this reading it is clear that “administrators” are reviewing the collected data to determine statistical information about the health patterns of employees; not billing or revenue. Billing is addressed briefly in this reference and represents the traditional billing of a medical caregiver for services rendered. As such, the rejection is unsupportable and must be withdrawn. Claims 2-7 are allowable for at least these reasons.

The remaining claims, as amended include data collection from an implantable medical device. None of the reference alone or in combination teach the

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communication platform, protocols and requirements necessary to receive data from an implantable medical device and provide such information to the claimed network.

With respect to Claim 32, which included this element, the Examiner acknowledges that Maus fails to teach an implanted medical device. The Examiner further asserts that Cofano "suggests" an implantable medical device and more specifically that the reference "suggests an implanted medical device which [sic] stimulating body organs and tissue to evoke a response for enhancing a body function or to control pain, and drug delivery devices for releasing a bolus at a selected site (Fig. 10, Page 10; Paragraphs 0101-0104)."

With all due respect, such an assertion is completely incorrect and inaccurate. In fact, the following terms were text searched in an electronic version of the Cofano reference and they do not appear anywhere within the document: bolus, evoke, stimulating, and pain. Text searching relating to "drug" indicates that the system performs some tracking (e.g., pharmacy) but no drug delivery.

FIG. 10 illustrates an interface display with representative graphics; no indication of an implantable medical device of any sort. Paragraphs 101 -104 read as follows:

[0101] FIGS. 9A and 9B illustrate the service provider (doctor) interface display after the service session with the patient is in progress using window 707. In FIG. 9A, the prompt window 709 displays patient information, while in FIG. 9B, the prompt window 709 displays treatment information while the audio/video service session is taking place.

[0102] FIG. 10 illustrates the user (patient) interface display 511 while the service session is being conducted. A prompt window 609 displays information to the patient that is provided by the doctor. The prompt window 609 may also be used to display data to the patient from the server unit 500, as appropriate.

[0103] FIGS. 11A-11C shows treatment related instructions for the patient based on the service session and FIG. 12 shows a prescription for treatment of the patient based on the service session interaction and the data associated with the service session in the digital dialog of the present invention. The instructions and prescriptions are visible to both the patient and the doctor and are stored in the data store 505 of the server unit 500.

[0104] Furthermore, the present invention contemplates automated activity based on the service session related and other data stored in the data store 505. For example, the prescriptions and refills can be automatically transmitted to pharmacies and reminders (for example, by e-

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mail or voice mail) can automatically be sent to patients. Follow up activities can be automatically set up and tracked. Finally, data associated with the digital data can be used for outcome research or for tracking service related parameters.

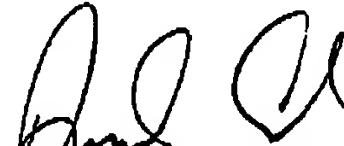
This language has nothing to do with an implantable medical device nor with the description asserted by the Examiner to be "suggested" by Cofano. Applicant respectfully requests clarification as to where exactly this "suggestion" finds support.

None of the reference alone or in combination teach collecting data from implantable medical devices and making such information available through a web site or similar portal. As such, none of the references alone or in combination render the pending claims obvious. Withdrawal of the rejections of record is respectfully requested.

Applicant has cancelled certain claims to expedite prosecution and reserves the right to re-present these claims, any previously cancelled claims and any unclaimed subject matter in a subsequently filed continuing application without prejudice or disclaimer. Applicant traverses any outstanding grounds or rejection relating to the cancelled claims.

As the pending claims are believed in condition for allowance, notice of the same is respectfully requested. Should any issues remain outstanding, the Examiner is respectfully urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,



Daniel G. Chapik
Reg. No. 43,424
(763) 514-3066
Customer No. 27581

4/5/05
Date